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Chairman: Mr. KHAN (Pakistan)
(Vice Chairman)

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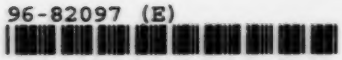

In the absence of Mrs. Espinosa (Mexico), Mr. Khan (Pakistan), Vice Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

AGENDA ITEM 110: HUMAN RIGHTS QUESTIONS (continued) (A/51/3)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/51/40, A/51/44, A/51/415, A/51/422, A/51/426, A/51/465 and A/51/482)

1. Mr. PELL (United States of America) said that, under the United States Constitution, a treaty could be ratified and enter into force only after the Senate had given its advice and consent. The Senate had given its advice and consent to the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination.

2. Those instruments and the other international instruments concerning human rights were basic building blocks in the efforts to build a world based on three principles which were deeply engrained in the fabric of world history, namely respect for human rights, democracy and the rule of law. The World Conference on Human Rights had recommended that a concerted effort be made to facilitate ratification of those instruments within the framework of the United Nations system.

3. After considering the issue for 40 years, the United States had ratified the Convention on the Prevention and Punishment of the Crime of Genocide in 1988. In 1994, it had deposited its instrument of ratification for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and it intended to make a sizeable contribution to the United Nations Voluntary Fund for Victims of Torture.

4. In 1992, the United States had ratified the International Covenant on Civil and Political Rights. The Covenant, which was considered by many to be the single most important human rights instrument, codified the essential freedoms which people must enjoy in an effective democratic society, such as the right to vote and to participate in government, to freedom of peaceful assembly, to equal protection of the law, the right to liberty and security and to freedom of opinion and expression. The United States had submitted its initial report to the Human Rights Committee in 1995.

5. The United States had also ratified the International Convention on the Elimination of All Forms of Racial Discrimination; the latter should be a very valuable tool as the international community responded to humanitarian and human rights crises born of racial and ethnic animosities. In that regard, the United States was pleased that the Commission on Human Rights had reaffirmed that anti-semitism was, indeed, a form of racism; it would be submitting its initial report on the implementation of that Convention in the near future.

6. The United States Government had placed as a top priority pursuing the ratification of the Convention on the Elimination of All Forms of Discrimination against Women. The Senate Foreign Relations Committee had reported favourably on the Convention in 1994, but the text of the Convention had yet to be considered by the full Senate.

7. Simply ratifying conventions and creating treaty bodies would not resolve ethnic and racial tensions, put an end to repressive Governments or reform political systems. The international community must rise to the challenge of making a reality of the standards which it had agreed to so that those standards could influence peoples' lives. The United States therefore asked the United Nations High Commissioner for Human Rights to continue to provide strong support for the human rights machinery and to support the human rights treaty bodies. There was also a need to avoid proliferation of human rights instruments and to improve coordination among the treaty bodies. He also noted with appreciation the information provided by the Chairmen of the treaty bodies concerning the increasing interaction between the treaty bodies and non-governmental organizations.

8. Mr. SHAHI (Nepal) recalled that the Charter of the United Nations sought to save humanity from war, which was the greatest and most flagrant violation of human rights. It was a reaffirmation of faith of the peoples of the United Nations in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and of nations large and small. The other major goal of the United Nations was to promote social progress and better standards of life in larger freedom, without which there could be no respect for human rights. The Universal Declaration of Human Rights proclaimed that all human beings were born free and equal in dignity and were endowed with reason and conscience.

9. Since the signing of the Charter and the adoption of the Declaration, the international community had been unable, despite the resolutions, protocols, covenants and conventions it had adopted, to prevent human rights from being denied and violated in many parts of the world. The Vienna Declaration and Programme of Action, adopted at the end of the World Conference on Human Rights in 1993, were the latest and most comprehensive expression of the commitment of Member States of the United Nations to the protection, preservation and promotion of all human rights. Nepal was firmly committed to those instruments and would like to see them implemented all over the world given that human rights were universal, indivisible and interdependent.

10. The United Nations treaty bodies which were responsible for monitoring implementation of the major international human rights instruments were integral parts of the human rights machinery. They provided forums for discussion and constructive dialogue among the parties concerned. The proposals submitted by those bodies, by the meetings of chairpersons of those bodies and by the special rapporteurs, experts and chairpersons of working groups merited careful consideration by Member States. His delegation endorsed the view that adequate material, human and financial resources should be provided to the Office of the High Commissioner for Human Rights and the Centre for Human Rights so that they could effectively carry out their work.

11. Nepal attached great importance to the links which existed between development, democracy and political, economic, civil, cultural and social rights and the right to development as recognized by the Vienna Conference. For that reason it had ratified or acceded to all major human rights instruments and was taking legislative measures to give effect to those instruments.

12. Ms. TUHOVČÁKOVÁ (Slovakia) said that the progress which countries made on the path of democracy should be measured against the yardstick of the respect which was shown for human rights in their society. While the international community was giving considerable attention to the promotion and protection of human rights, and while the international and regional human rights mechanisms had therefore gained in effectiveness, it nevertheless had to be recognized that much more needed to be done to check the wave of reported and noted violations, especially in view of the geopolitical instability, regional and ethnic conflicts and recent social turmoil.

13. Accordingly, the universal ratification of the major international human rights instruments and the monitoring by the United Nations of their effective implementation by States were of particular importance. States Parties to those instruments were therefore urged to review and, where appropriate, to withdraw their reservations regarding some of the provisions, just as Slovakia had withdrawn its reservation to article 20 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and had recognized the competence of the Committee against Torture under articles 21 and 22 of that Convention. Slovakia favoured increasing the membership of United Nations human rights bodies and considered that the representation of Central Europe and Eastern Europe should be strengthened on the basis of equitable geographical distribution.

14. As a successor State to the former Czechoslovakia as well as a keen defender of human rights, Slovakia had taken on all the commitments of Czechoslovakia under international human rights instruments in order to increase stability in the Central and Eastern European region to which it belonged. With the assistance of the United Nations, the Government had established a national human rights centre to ensure the promotion and protection of human rights in Slovakia by gathering information on the status of those rights and sensitizing Slovak public opinion in that area. Slovakia had made of human rights one of the priorities of its foreign policy and had adopted legislation and constitutional provisions to further their promotion and protection.

15. Ms. MACHNYIKOVÁ (Czech Republic) said that progress in the universal ratification and implementation of human rights instruments remained slow despite the commitments assumed by Member States at the World Conference on Human Rights. Neither national and regional particularities nor historical, cultural and religious backgrounds should be invoked to undermine the universal character of those instruments. States which formulated reservations should therefore consider withdrawing them or limiting their scope, as the Czech Republic had recently done by recognizing the competence of the Committee against Torture.

16. The United Nations should strengthen the monitoring functions of its treaty bodies to enable them to gather facts in individual countries. The innovative

approach to a control mechanism in the Convention on the Elimination of All Forms of Discrimination against Women and in the Convention on the Rights of the Child was very promising. Coordination and cooperation between monitoring bodies should be improved and their recommendations and conclusions should be followed up.

17. Ms. HERTZ (Chile) said that the full implementation of international human rights instruments was the essential complement to the progressive development of international law and its codification in the field of human rights. While the universal acceptance of those instruments was therefore not only desirable but also a priority goal, it would be wrong to overlook the most important aim, namely, standard-setting. Chile was in favour of setting elevated standards for the promotion and protection of human rights since only such standards would make the universal acceptance of human rights instruments fully meaningful. Her delegation hoped that the various working groups of the Commission on Human Rights which had been asked to prepare new instruments, such as the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, would treat that consideration as more important than any other, and it undertook to continue to support them in that respect.

18. It was essential to monitor the efficacy of the international human rights norms that were the basis of the work of the treaty bodies and the efficacy of the special procedures and thematic machinery which played an irreplaceable role in the effective promotion and protection of human rights. Her delegation was concerned about the attempt by some countries to undermine the work of the entities concerned by questioning their legitimacy. It was also perturbed by the fact that those countries increasingly gave precedence to their internal law over international law in human rights matters. It saw danger in that practice, which could serve to justify human rights violations, and it therefore urged all States to embody in their domestic legislation the norms laid down by international human rights instruments and thus to give precedence to those instruments.

19. Her delegation had no objection to strengthening the machinery and procedures for monitoring the implementation of the above-mentioned instruments. It considered that the question of whether or not to merge the reports of the thematic mechanisms required considerable reflection since it would be counter-productive to allow efforts for the rationalization and optimum use of resources to weaken the system for monitoring the implementation of human rights instruments. Her delegation would like the thematic mechanisms to give particular attention to the difficult and dangerous situation of all who upheld human rights, in order to see more clearly the conditions in which they did their work and to assist them. It was a pity that after 10 years of trying the United Nations had not yet adopted a declaration embodying, recognizing and protecting their rights.

20. Her delegation was wholeheartedly in favour of restructuring the Centre for Human Rights and urged the High Commissioner for Human Rights to continue the work he had embarked on. It had every confidence that, once the restructuring was finished, the Centre would be in a better position to discharge its responsibilities and would be able to give the necessary attention to all categories of human rights, especially the right to development, which, given

the interdependence of democracy and development, should be at the centre of all work to protect human rights.

21. Mr. WANG MIN (China) said that, since acceding to human rights instruments meant that the States Parties were obliged to implement their provisions, it was normal that States, before acceding to a particular instrument, needed to study it carefully in relation to their national law. Some developing countries because of a low socio-economic level of development might have difficulty in acceding to certain human rights instruments. Whether or not to accede to an instrument or to make reservations regarding its provisions was a sovereign decision to be taken by the State concerned in the light of its situation. Some countries exerted political pressure on developing countries to force them to accede to human rights instruments or withdraw their reservations, a practice which could only undermine the authority of the instruments in question.

22. Such problems as the increasing backlog owing to the delayed submission and consideration of the reports of States Parties had seriously affected the operation of human rights treaty bodies. Rather than to advocate increased resources, it was necessary to rationalize the work of the treaty bodies and enhance their efficiency by, inter alia, strengthening coordination between them and the non-conventional human rights mechanisms of the United Nations, studying the feasibility of a consolidated report by States Parties on the implementation of their obligations under relevant conventions, and providing developing countries with special assistance in drafting elaborate reports.

23. Although the treaty bodies played an important role in the implementation of the conventions, that implementation also depended on the adoption of administrative and legal measures by States Parties. Treaty bodies should therefore fulfil their responsibilities impartially and objectively.

24. China had adopted a host of laws protecting human rights and was willing to strengthen international cooperation in that field on the basis of equality and mutual respect. Although China was a developing country with a large population and vast territories and thus needed more resources, it nevertheless strictly abided by its obligations under the conventions and submitted its reports on time.

25. Concerning the relationship between Hong Kong and the International Covenant on Civil and Political Rights, according to the relevant provisions of the Sino-British Joint Declaration and the Basic Law of the Hong Kong Special Administrative Region, the relevant provisions of the two United Nations human rights covenants would continue to be implemented in Hong Kong after 1997.

26. Ms. TOMIĆ (Slovenia) said that her country, which had acceded to the six principal international human rights instruments concluded under United Nations auspices and had brought its national law into line with the norms established in those instruments, attached great importance to the question under consideration. Her delegation was pleased to note the constant increase in the number of States acceding to those instruments and urged States which had not yet done so to follow their example, so that the goal of universal ratification set forth in the Vienna Programme of Action (part I, para. 26) could be attained. States should fulfil all their obligations as signatories to human

rights instruments and hence avoid formulating reservations; if they did resort to reservations, States should ensure that they were consistent with the scope and intent of the instruments and formulate them as precisely and narrowly as possible. Her delegation urged States to accede in greater numbers to the provisions and instruments providing for individual complaint procedures.

27. Becoming a signatory to a human rights instrument entailed not only accepting all the ensuing obligations but also reporting on its implementation to the relevant treaty body in a regular and timely manner. States whose reports were overdue should make greater use of the advisory services and technical assistance programme of the Centre for Human Rights.

28. She welcomed the continuing efforts of the treaty bodies to rationalize and otherwise improve reporting procedures, but considered it necessary to examine ways of meaningfully reducing the number of reports to be presented to those bodies, for that would reduce the burden of States Parties. She likewise considered that the conclusions reached by the chairpersons of the human rights treaty bodies at their seventh meeting (A/51/482) were interesting, but that other possibilities should be explored for coordinating the guidelines for preparing State reports under those instruments, as requested in the Vienna Programme of Action (part II, para. 87).

29. She fully realized the enormous burden of work facing the treaty bodies. In order to lighten that burden, those bodies should be given the financial, human and information resources they needed. She welcomed the initial results of the restructuring of the Centre for Human Rights, in particular the regrouping in a single management unit of all services supporting the treaty bodies, and hoped that the restructuring of the Centre would enable the latter to continue supporting the secretariat of the five treaty bodies based in Geneva and providing the necessary servicing. On the practical level, she welcomed the establishment of the information retrieval and database system, which would facilitate compliance by States Parties with their reporting obligations and increase the efficiency of the treaty bodies. She hoped that the system would soon become operational and would be accessible to all the treaty bodies.

30. Her delegation supported the ongoing efforts by various treaty bodies to improve their methods of work. One excellent means of attaining that end would be the combined consideration of as yet unconsidered State party reports. The practice of producing general observations on the report submitted by States parties was useful, especially when the observations contained recommendations on ways of incorporating the provisions of an international instrument in national legislation and implementing them. The observations should be as precise and practical as possible so that States Parties could derive maximum benefits from them.

31. Lastly, she supported the various measures the treaty bodies had taken with a view to carrying out their work more efficiently. However, she considered that, as proposed in paragraph 26 of the aforementioned report A/51/482, it would be useful to package the various procedural amendments to the human rights treaties in a single document so that States Parties would have the option of invoking their constitutional amendment procedures only once.

32. Mr. de SILVA (Sri Lanka) said that the effective implementation of human rights instruments and the existence of efficient and comprehensive monitoring machinery played a much larger role in the promotion and protection of human rights than high-minded rhetoric or trenchant criticism. Over the years, his country had taken constitutional and legislative measures to recognize those rights, ensure they were respected and provide remedial relief where violations were established. Recently, after long consultations with the opposition parties and in the light of the observations of non-governmental organizations and the advice of the United Nations High Commissioner for Human Rights, his Government had adopted a new law establishing a commission for the defence of human rights in which the various parties and the various sectors of society, including minorities, would be represented. The Commission would monitor executive and administrative practices, investigate complaints about infringements of fundamental rights, mediate between victims and perpetrators of violations with a view to resolving complaints, advise on the formulation of legislation and administrative directives to be adopted by the State in accordance with international human rights instruments, and promote awareness of fundamental rights. In order to ensure the independence and integrity of the commission, its five members, chosen from among persons with special knowledge of human rights matters, would be appointed by the President on the recommendation of the Constitutional Council, in consultation with Parliament, and could not be removed from their duties except for serious wrongdoing or condemnation by a judicial body, in particular for an offence involving moral turpitude. Both individual actions and class actions could be brought before the commission, or before the subcommittees representing it at the provincial level, concerning human rights violations committed by the State or non-State actors, notably in the case of acts of terrorism. Lastly, sums of money might, where necessary, be awarded to people bringing cases before the commission, in order to encourage the population to have recourse to it in the event of human rights violations.

The meeting rose at 11.10 a.m.